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OFFICE OF PETITIONS

In re Application of Shekunov et al. :
Application No. 10/691,113 :
Filing Date: October 22, 2003 :
Attorney Docket No. FER-14651 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed March 8, 2007, to withdraw the holding of abandonment.

The petition is **granted to the extent indicated below**.

Facts:

A decision by the Board of Patent Appeals and Interferences affirmed the examiner's rejection of all pending claims.

The Board decision was mailed January 29, 2007.

A Notice of Abandonment was mailed February 6, 2007. The Notice stated the application was abandoned as a result of the Board decision and, "because the period for seeking court review of the decision has expired and there are no allowed claims."

The instant petition was filed March 8, 2007.

Application No. 11/687,266 was filed March 16, 2007. Application No. 11/687,266 is a continuation of the instant application.

Discussion:

In view of petitioner's failure to take any steps to reopen prosecution in the instant application, the application is clearly abandoned. The only issue to be resolved is the date of abandonment.¹

¹ MPEP 201.11 states, "When proceedings in an application are terminated, the application is treated in the same manner as an abandoned application, and the term "abandoned application" may be used broadly to include such applications."

Office computer records currently indicate the application became abandoned February 5, 2007. Unless the date of abandonment is changed, the application will lack copendency with Application No. 11/687,266.

37 CFR 1.197(b)(2) states,

The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 1.304) expires in the absence of further appeal or review.

Per 37 CFR 1.304, the last date for filing the notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action was Friday, March 30, 2007.

Petitioner has not taken action to reopen prosecution and no claims have been allowed. Therefore, proceedings terminated March 31, 2007.

Office records will be corrected to show a date of abandonment of March 31, 2007.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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